

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NEW YORK STATE TELECOMMUNICATIONS
ASSOCIATION, INC., CTIA – THE WIRELESS
ASSOCIATION, ACA CONNECTS – AMERICA’S
COMMUNICATIONS ASSOCIATION,
USTELECOM – THE BROADBAND ASSOCIATION,
NTCA – THE RURAL BROADBAND ASSOCIATION,
and SATELLITE BROADCASTING &
COMMUNICATIONS ASSOCIATION, on behalf of
their respective members,

**Docket No.: 21 CV 2389
(DRH)(AKT)**

Plaintiffs,

- against -

LETITIA A. JAMES, in her official capacity as
Attorney General of New York,

Defendant.

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STIPULATED FINAL JUDGMENT

WHEREAS, on April 30, 2021, New York State Telecommunications Association, Inc.; CTIA – The Wireless Association; ACA Connects – America’s Communications Association; USTelecom – The Broadband Association; NTCA – The Rural Broadband Association; and Satellite Broadcasting & Communications Association (together, “plaintiffs”), filed a complaint against Letitia A. James, in her official capacity as Attorney General of the State of New York, alleging that N.Y. General Business Law (“GBL”) § 399-zzzzz, as enacted by ch. 56, pt. NN (244th Sess. 2021), is preempted by federal law;

WHEREAS, on May 6, 2021, plaintiffs filed a motion for an order preliminarily enjoining the Attorney General from enforcing N.Y. GBL § 399-zzzzz, as enacted by ch. 56, pt. NN (244th Sess. 2021); on May 17, 2021, the Attorney General opposed the motion; and on May 21, 2021, plaintiffs filed a reply brief in support of their motion;

WHEREAS, on June 11, 2021, the Court granted plaintiffs' motion for a preliminary injunction against enforcement of N.Y. GBL § 399-zzzzz, as enacted by ch. 56, pt. NN (244th Sess. 2021), holding that plaintiffs were likely to succeed on their claims of conflict preemption and field preemption;

WHEREAS, the parties have conferred and agree that the Court's holdings on preemption in the June 11, 2021, memorandum and order resolve the substantive legal issues in this matter and render the entry of final judgment appropriate;

WHEREAS, in light of that agreement and to enable entry of a final, appealable judgment, plaintiffs consent to the dismissal of their second claim for relief without prejudice; and

WHEREAS, notwithstanding this agreement that entry of final judgment is appropriate at this time, defendant expressly reserves all appellate rights in this matter;

NOW, THEREFORE, it is hereby stipulated and agreed that:

- (a) For the reasons given in the Court's June 11, 2021, memorandum and order, the parties agree to the issuance of a final judgment in favor of plaintiffs;
- (b) For the reasons given in the Court's June 11, 2021, memorandum and order, the Court declares that N.Y. GBL § 399-zzzzz, as enacted by ch. 56, pt. NN (244th Sess. 2021), is preempted by federal law;
- (c) For the reasons given in the Court's June 11, 2021, memorandum and order, defendant Letitia A. James, in her official capacity as the Attorney General of the State of New York, her employees, agents, and all persons acting on her behalf are permanently enjoined from enforcing N.Y. GBL § 399-zzzzz, as enacted by ch. 56, pt. NN (244th Sess. 2021);

- (d) To enable the entry of a final, appealable judgment, plaintiffs' second claim for relief is dismissed without prejudice;
- (e) Defendant reserves the right to appeal this stipulated final judgment, declaration, and permanent injunction; plaintiffs recognize defendant's right to appeal this stipulated final judgment, declaration, and permanent injunction; and
- (f) Pursuant to Federal Rule of Civil Procedure 54(d), a motion by any party for costs shall be filed no later than 30 days after the expiration of the period for appeal or, in the event of an appeal, shall be filed within 30 days of the judgment of the court of appeals, the United States Supreme Court, or the final judgment of this Court on remand, whichever is later.

STIPULATED AND AGREED BY:

Dated: July 23, 2021

/s/ Patricia M. Hingerton

Letitia James

Attorney General of the State of New York

Patricia M. Hingerton

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*Attorneys for Defendant Letitia A. James, in
her official capacity as Attorney General of
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Respectfully submitted,

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**Pro hac vice* motion to be filed

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IT IS ORDERED THAT:

- (a) This stipulated final judgment is hereby granted; and
- (b) The Clerk of the Court is directed to enter such final judgment in favor of plaintiffs, and
to close this case.

Dated: Central Islip, New York
_____, 2021

Denis R. Hurley
United States District Judge